

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PHOENIX LIFE INSURANCE COMPANY,	:	CIVIL ACTION NO. 06-1828 (MLC)
	:	
Plaintiff,	:	MEMORANDUM OPINION
	:	
v.	:	
	:	
MERIDIAN CAPITAL, L.L.C.,	:	
	:	
Defendant.	:	
_____	:	

THE COURT having ordered the parties to show cause why the complaint should not be dismissed for lack of jurisdiction under 28 U.S.C. § 1332 (dkt. entry no. 2); and the Court being concerned that (1) the defendant – which the plaintiff merely alleged is incorporated in New Jersey with its principal place of business in New Jersey – is a limited liability company, (2) limited liability companies are deemed citizens of each state in which their members are citizens, not the states in which they were formed or have their principal places of business, and (3) because of the plaintiff's apparent failure to sufficiently allege the defendant's citizenship, the plaintiff was not a citizen of a different state in relation to the defendant (4-24-06 Order to Show Cause, at 1-2); and thus the Court advising the plaintiff of the intention to dismiss the complaint for lack of jurisdiction (id. at 2-3); but the Court further advising the plaintiff that a dismissal would be without prejudice to re-commence the action in state court, as the limitations period for

the cause of action is tolled by the filing of the federal complaint (id. at 4); and

THE PLAINTIFF, in response, asserting that it "does not oppose dismissal on the grounds of lack of jurisdiction" (5-11-06 Shea Letter); and thus the Court intending to (1) decide the order to show cause before the return date of May 25, 2006, (2) grant the order to show cause, and (3) dismiss the complaint without prejudice to re-commence the action in state court; and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge